



# REGIONAL PERMIT

US Army Corps  
of Engineers  
Albuquerque District  
4101 Jefferson Plaza, NE  
Albuquerque, NM 87109-3435

Fax No. 505-342-3498

Regional Permit No:	Issuance Date:
NM-97-00439	January 20, 1998
Phone:	Expiration Date:
(505) 342-3283	January 20, 2003

In Reply Refer to:

District Engineer, ATTN: CESPA-OD-R

## REGIONAL PERMIT UNDER SECTION 404 OF THE CLEAN WATER ACT (33 USC 1344) FOR UTILITY LINE CROSSINGS IN THE SAN JUAN, ANIMAS, AND LA PLATA RIVERS IN SAN JUAN COUNTY, NEW MEXICO

**Purpose of this Regional Permit:** The purpose of this regional permit is to authorize the placement of dredged or fill material into the San Juan, Animas, and La Plata Rivers in association with the construction of new utility line crossings in San Juan County, New Mexico. These activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. Activities which do not comply with the provisions of this regional permit may require an individual permit. This regional permit replaces Regional Permit No. NM-92-00045 which was issued on August 12, 1992.

**Background:** Water quality in the San Juan Basin is impaired by salinity, siltation, reduction of riparian vegetation, streambank destabilization, pesticides, metals, polycyclic aromatic hydrocarbon (PAH) compounds, and flow depletions and the resultant changes in river channel morphology. There is also concern over the bioaccumulation of trace metals in the biota of the San Juan and Animas Rivers. These factors, as well as stream flow and morphology alterations, have been implicated as contributing to the near extirpation of the Colorado squawfish (*Ptychocheilus lucius*) and razorback sucker (*Xyrauchen texanus*), two federally-listed endangered species inhabiting the San Juan River. The bald eagle (*Haliaeetus leucocephalus*), a federally-listed threatened species, may be indirectly affected by habitat loss, contaminants, and water quality degradation in the San Juan Basin.

The sources of this water quality impairment include both agriculture and resource extraction. Other unknown sources are also suspected. The San Juan, Animas and La Plata Rivers have been affected by numerous pipeline crossings in recent years. This regional permit is being issued to address these environmental concerns and to eliminate the potential for negative cumulative impacts to the water resources of the San Juan Basin. In addition, the regional permit should streamline the permitting process, provide potential applicants (i.e. utility companies and local governments) with guidelines for obtaining Section 404 authorization from the Corps of Engineers, and reduce the burden on the regulated public.

**Related Nationwide Permits:** This regional permit applies to the construction of new utility line crossings. The repair of existing utility line crossings should continue to be authorized under Section 404 Nationwide Permits 3 (Maintenance), 12 (Utility Line Discharges), and/or 33 (Temporary Construction, Access, and Dewatering), provided the work complies with the terms and conditions of the permits.

**Permittees:** The proposed permittees are those individuals, companies, and government agencies that plan to place new utility lines across the San Juan, Animas, or La Plata Rivers in San Juan County, New Mexico.

**Permit Area:** This regional permit would be applicable to construction of new utility line crossings of the San Juan, Animas, and La Plata Rivers in San Juan County, New Mexico. A map showing the regional permit area is enclosed.

**Scope of Work:** Activities authorized by this regional permit are limited to the construction of new utility line crossings of the San Juan, Animas, and La Plata Rivers in San Juan County, New Mexico. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication.

**Duration of the Regional Permit:** This regional permit authorizes activities begun within 5 years and completed within 6 years after the date of issuance, unless the permit is revoked in the interim. Activities completed under authorization of the regional permit which was in effect at the time the activity was completed continue to be authorized by that regional permit.

**Notification Procedures:** The applicant must first notify the Corps of Engineers in writing. Work cannot proceed until the Corps of Engineers

has provided written approval to the permittee. The applicant must provide the following information:

- a. A written request to conduct work under the regional permit, including the applicant's name, address, and daytime phone number.
- b. A complete description of the work including composition, source, and volume in cubic yards of all material to be discharged; area of waterway to be excavated or filled; a description of the waters of the United States including wetlands to be affected; and anticipated starting and completion dates.
- c. The project location including name of waterway, nearest town, county, and Section, Township, Range.
- d. Drawings or sketches on 8-1/2" x 11" paper showing the project location, the plan or top view of all work subject to Section 404, and cross-sectional or side views of the work. The plan view should indicate (if known) the ordinary high water mark of the waterway; the approximate configuration of the river channel for a reach 100 yards upstream and downstream of the proposed project site; and the boundaries of any wetlands, major islands or bars, areas of deciduous woody riparian vegetation, and secondary channels.
- e. A characterization of the project site including a description of any wetlands and riparian vegetation to be affected by the work; and potential sources of contaminants (e.g. nearby oil refineries, suspected contaminants in dredged material, etc.). Sediment testing may be required if there is a potential for contaminants to occur in riverbed sediments.
- f. A certification statement that the proposed work will comply with all conditions of the regional permit.

The above information should reference Regional Permit No. NM-97-00439 and be sent to:

District Engineer  
Albuquerque District, US Army Corps of Engineers  
ATTN: Regulatory Branch  
4101 Jefferson Plaza, NE  
Albuquerque, NM 87109-3435  
Telephone: (505) 342-3283

The Corps of Engineers will coordinate the notification with other Federal and state agencies to solicit their views on the environmental effects of the proposed work. Within 5 days of receipt of a request to use the Regional Permit, the Corps will transmit a copy of the application to the federal and state resource and regulatory agencies in New Mexico for their review and comment. After considering agency comments, the Corps of Engineers may add special conditions to ensure that adverse environmental impacts are minimal, or may decide that an individual permit application is required. Within 30 days of receiving a completed notification, the Corps of Engineers will review the proposal and inform the permittee if the work may proceed under the authorization of this regional permit or will require an individual permit.

**Conditions of the Regional Permit:** All activities authorized under this regional permit are subject to the following conditions.

- a. Work must be performed during low-flow periods, typically between October 1 and February 1, or during the peak of the irrigation season. Work may begin immediately upon receipt of written acknowledgment and the District Engineer must be notified within two weeks after the work is completed. Construction work in the river (excluding upland areas) should normally be limited to a three-week period to minimize river channel disturbance. Work must be halted if flows increase to more than half of bankfull discharge and may not begin again until water levels have gone down to half of bankfull discharge.
- b. The permittee must maintain the activity authorized by this permit in good condition, including maintenance to ensure public safety, and in conformance with the terms and conditions of this permit.
- c. The permittee must allow representatives from this office and other resource agencies to inspect the authorized activity at any time deemed

necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

d. The work must not be located in the proximity of a public water supply intake.

e. The discharge of dredged or fill material will not consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and must be free from toxic pollutants in toxic amounts.

f. No activity is authorized under this regional permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species.

g. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, is authorized under this regional permit until the Corps of Engineers has complied with the applicable provisions of National Historic Preservation Act. The prospective permittee must notify the Corps of Engineers if the proposed activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and will not begin the activity until notified by the Corps of Engineers that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources and the existence of cultural resources surveyed within the project area can be obtained from the New Mexico State Historic Preservation Officer.

#### **Special Conditions:**

a. Temporary cofferdams will be constructed of materials that will not result in a violation of state water quality standards for turbidity.

b. Throughout construction, the site will be monitored for turbidity plumes, excess removal of vegetation, and other potential environmental impacts. Should a plume or other problem be detected, work will cease until it can be remedied.

c. Equipment used in or near the river will be inspected and continuously monitored during construction to insure that no fuel or oil leaks exist. No leaking equipment will be used in any area that might result in discharge of pollutants into the river.

d. Exposed, erodible fills will be protected from being washed into the river during project construction, and removed and/or stabilized after construction.

e. Any temporary diversion channels will be lined with a geotextile or similarly protected to prevent mixing of riverbed sediments.

f. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximately the pre-disturbance native plant assemblage. Any cottonwoods displaced will be replanted at a minimum ratio of 5:1 (5 trees planted for each tree lost) and monitored for survival for at least 3 growing seasons. If replanted trees die, replacements will be planted and monitored similarly.

g. The hydraulic capacity and morphology of secondary (high flow) channels of the San Juan River will not be altered.

h. The applicant should contact the New Mexico State Historic Preservation Officer (NMSHPO) (and the Federal, state, or local landowner, if applicable) early in the planning phase of the project to determine if any cultural resources exist in the project vicinity that may be adversely affected by construction activities. A cultural resources survey shall be conducted for any portion of the project not previously surveyed. Copies of cultural resources surveys shall be submitted with any request to use the regional permit.

#### **Further Information:**

a. Water Quality Certification: In accordance with Section 401 of the Clean Water Act, a water quality certification must be obtained from the appropriate authority prior to construction. On work within Navajo Nation lands, applicants must contact the U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1967 for certification. On Ute Mountain Tribal lands, applicants must

contact the U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 312-6192 for certification. On non-tribal lands, applicants must contact the New Mexico Environment Department, Surface Water Quality Bureau, P.O. Box 26110, Santa Fe, New Mexico 87502-6110, (505) 827-0106, for certification.

b. Congressional Authorities: This regional permit is authorized pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

c. Other Laws: The permittee is responsible for obtaining all other Federal, state, or local authorizations required by law.

d. Limits of this Authorization: This regional permit does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize interference with any existing or proposed Federal project.

e. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following: damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activities authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.

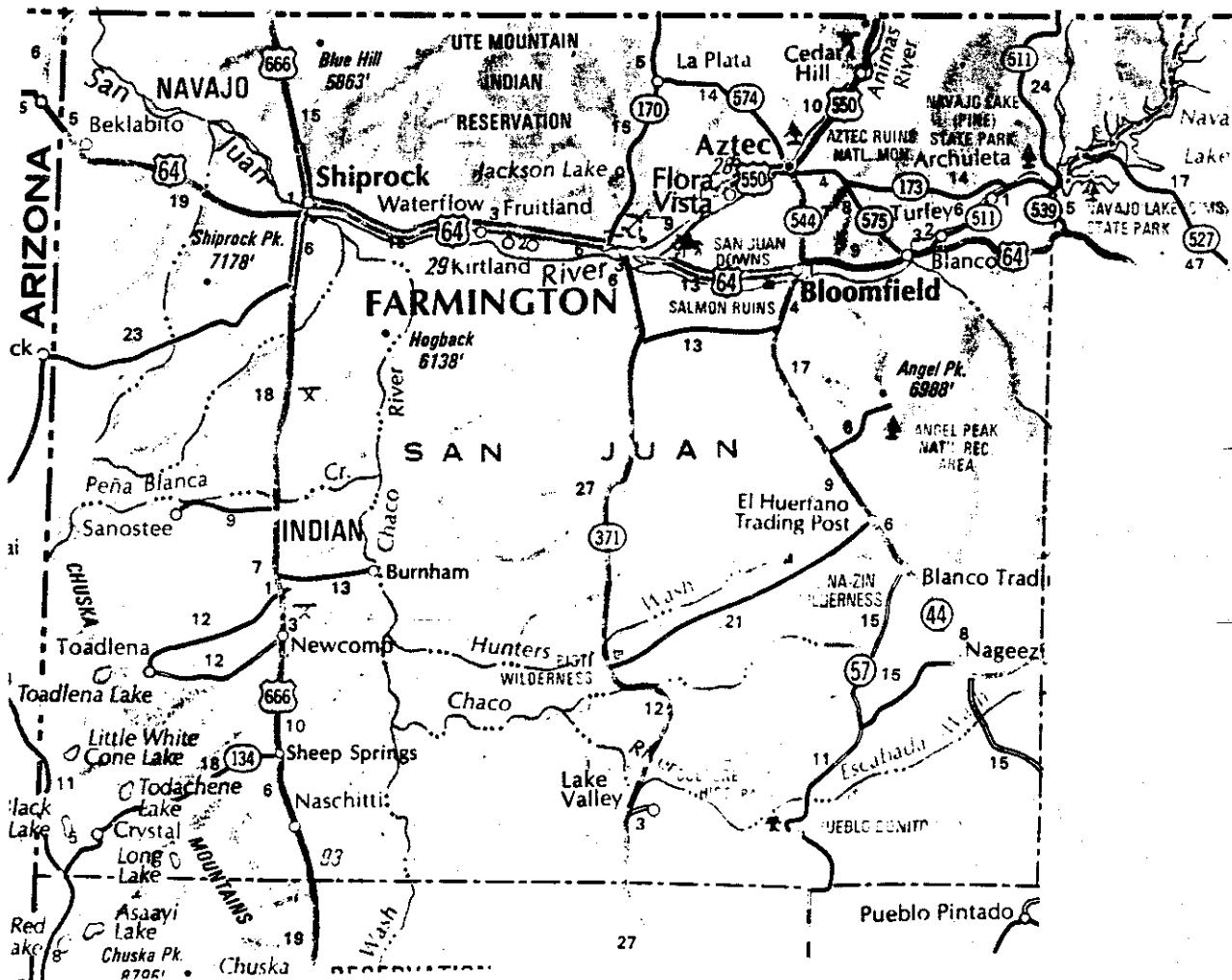
f. Reevaluation of Permit Decision: The Corps of Engineers may reevaluate its decision on this regional permit or individual activities authorized under this regional permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: the permittee fails to comply with the terms and conditions of this regional permit; the information provided by the permittee in support of their notification proves to have been false, incomplete, or inaccurate; or significant new information surfaces which the Corps of Engineers did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in

33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the regional permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the Corps of Engineers, and if fails to comply with such directive, the Corps of Engineers may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

g. Renewal of the Regional Permit: This regional permit may be reviewed for reissuance prior to its expiration date. Any reissuance will be processed in accordance with 33 CFR 325.2, including a public notice and environmental procedures and documentation required by the National Environmental Policy Act of 1969.

Lloyd S. Wagner  
Lieutenant Colonel, EN  
District Engineer

Enclosure



SAN JUAN COUNTY, NEW MEXICO  
 REGIONAL PERMIT AREA FOR  
 REGIONAL PERMIT NO. NM-97-00439

Regional Permit for New Utility Line Crossings  
 of the San Juan, Animas, and La Plata Rivers  
 in San Juan County, New Mexico

Regional Permit No. NM-97-00439

Sheet 1 of 1

January 1998